

REMARKS

Applicants respectfully request reconsideration of the present application in view of the foregoing requested amendments and in view of the reasons that follow. Applicants respectfully assert that entry of the requested amendments would place the application in condition for allowance. Alternatively, entry of the requested amendments would place the application in better form for consideration on appeal.

As a preliminary matter, Applicants gratefully appreciate the Examiner's withdrawal of the rejection of claim 10 as being indefinite, in view of Applicants' arguments and amendments.

Claims 8, 9 and 12 stand finally rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent Application Publication No. 2002/0051902 to Suenaga et al. (hereinafter "Suenaga"). Claims 13 and 14 stand finally rejected under 35 U.S.C. § 103(a) as being unpatentable over Suenaga. Claims 10 and 11 stand finally rejected under 35 U.S.C. § 103(a) as being unpatentable over Suenaga in view of U.S. Patent Application Publication No. 2003/0041444 to Debe et al. (hereinafter "Debe").

By this amendment, claim 8 has been amended to further define the subject matter Applicants regard as the invention as discussed in greater detail below. Claims 9-14 remain unchanged in the application.

This amendment adds, changes and/or deletes claims in this application. A detailed listing of all claims that are, or were, in the application, irrespective of whether the claim(s) remain under examination in the application, is presented, with an appropriate defined status identifier. After amending the claims as set forth above, claims 8-14 remain pending in this application for consideration.

Applicants respectfully submit that sole independent claim 8 and claims dependent therefrom, are patentably distinguishable over the cited reference as required by § 102. Applicants further submit that the cited reference fails to disclose Applicants' claimed manufacturing method for a polymer electrolyte fuel cell including the step of *obtaining an integrated fuel cell through a single process of applying heat and pressure to the first*

separator and the second separator using the pressing jigs as required by independent claim 8. By contrast, the cited reference fails to disclose this claimed step. Accordingly, independent claim 8 and claims dependent therefrom are patentably distinguishable over the cited reference. This distinction will be further described below.

THE CLAIMS DISTINGUISH OVER THE CITED REFERENCE

Claims 8, 9 and 12 stand rejected as being anticipated by Suenaga. In response, Applicants traverse the rejection and respectfully submit that the claims are allowable at least for the reasons that follow.

Applicants rely on MPEP § 2131, entitled “Anticipation – Application of 35 U.S.C. 102(a), (b), and (e),” which states that a “claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” Section 103 amplifies the meaning of this anticipation standard by pointing out that anticipation requires that the claimed subject matter must be “*identically* disclosed or described” by the prior art reference. (Emphasis added.) It is respectfully submitted that Suenaga does not describe each and every element of any of the claims.

Embodiments of the present invention relate to a manufacturing method for a polymer electrolyte fuel cell. The manufacturing method according to independent claim 8 includes the steps of : (1) applying an adhesive to a surface of the first separator which contacts the first gas diffusion layer; (2) applying the adhesive to a surface of the second separator which contacts the second gas diffusion layer; and (3) disposing the first separator, the first gas diffusion layer, the polymer electrolyte membrane, the second gas diffusion layer, and the second separator between a pair of pressing jigs so as to be laminated in the described sequence.

According to one embodiment of the present invention as now required by amended independent claim 8, the method further includes the step of ***obtaining an integrated fuel cell through a single process of applying heat and pressure to the first separator and the second separator using the pressing jigs***. Performing these steps shortens the manufacturing process of the polymer electrolyte fuel cell (page 2, lines 6 and 7). As illustrated in FIG. 4 of the

present application, the method integrates all of the components of the fuel cell (i.e., the polymer electrolyte membrane (5), the gas diffusion layers (6A and 6B) and the separators (7A and 7B)) through a single process of applying heat and pressure to the first separator 7A and the second separator 7B using the pressing jigs (page 4, lines 1-12 and page 9, line 16 through page 10, line 13). Applicants respectfully submit that Suenaga fails to disclose this claimed step.

Suenaga is concerned with problems created by mounting seals in a membrane electrode assembly (Suenaga, paragraph 11, lines 1-4). Conventionally seals made from organic rubbers are used instead of seals made from carbon or ceramics since rubber seals are flexible and have a suitable reaction force which prevents breakage of the separator plate in the assembly of a fuel cell stack, as compared with seals made from carbon or ceramics (paragraph 7, lines 1-10 and paragraph 8, lines 1-8). The rubber seal, however, needs to be charged into a cavity formed in a die requiring high temperatures and pressure which adversely affects the electrolyte membrane and the electrode plate (paragraph 10, lines 9-16). To address these problems, Suenaga discloses forming in advance, the seal into a predetermined shape, setting the seal at the mounting portion of the membrane electrode assembly and integrally forming the seal with the membrane electrode assembly (paragraph 12, lines 10-13). As clearly illustrated in FIG. 3A, Suenaga teaches that to coat an adhesive 50 on the close-contacting surface 15 of the seal 10A, in hot pressing, the close-contacting surface 15 is adhered to the electrolyte membrane 23 via the adhesive 50 and the seal 10A is integrally mounted to the membrane electrode assembly 20 (paragraph 45, lines 1-7). Thus, Suenaga teaches the integration of the electrolyte membrane 23, the electrode plates 21 and 22A and the seal 10A.

Suenaga, however, fails to disclose the claimed step of *obtaining an integrated fuel cell through a single process of applying heat and pressure to the first separator and the second separator using the pressing jigs*. What Suenaga discloses is a two-step process for obtaining an integrated fuel cell. This is confirmed by the Examiner's remarks found on page 7 of the Office Action. For anticipation, however, "every element and limitation of the claimed invention must be found in a single prior art reference, arranged as in the claim." *Brown v. 3M*, 60 USPQ2d 1375 (Fed. Cir. 2001). Suenaga fails to disclose each of the

features of independent claim 8. The Debe reference also fails to disclose this claimed step and was not cited for that purpose.

In view of the fact that the Suenaga reference does not disclose each of the claimed steps indicated above, this reference cannot be said to anticipate nor can it be said to render obvious the invention which is the subject matter of independent claim 8. Thus, independent claim 8 is allowable.

Since independent claim 8 is allowable, claims dependent therefrom, namely claims 9-14 are also allowable by virtue of their direct or indirect dependence from allowable independent claim 8 and for containing other patentable features. Further remarks regarding the asserted relationship between any of the claims and the cited reference are not necessary in view of their allowability. Applicants' silence as to the Office Action's comments is not indicative of being in acquiescence to the stated grounds of rejection.

CONCLUSION

Applicants believe that the present application is now in condition for allowance. Favorable reconsideration of the application as amended is respectfully requested.

The Examiner is invited to contact the undersigned by telephone if it is felt that a telephone interview would advance the prosecution of the present application.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 19-0741. Should no proper payment be enclosed herewith, as by a check being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing or a credit card payment form being unsigned, providing incorrect information resulting in a rejected credit card transaction, or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 19-0741. If any extensions of time are needed for timely acceptance of papers submitted herewith, Applicants hereby petition for such extension under 37 C.F.R. §1.136 and authorize payment of any such extensions fees to Deposit Account No. 19-0741.

Respectfully submitted,

Date July 14, 2008

By Michael D. Kaminski

FOLEY & LARDNER LLP
Customer Number: 22428
Telephone: (202) 672-5490
Facsimile: (202) 672-5399

Michael D. Kaminski
Attorney for Applicant
Registration No. 32,904